

DISTRICT OF NEVADA

Plaintiff,

ORDER

Defendant.

I. BACKGROUND

II. DISCUSSION

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1 D. Nev. R. 7-2(d). As the Ninth Circuit has held, “[f]ailure to follow a district court’s local rules
2 is a proper ground for dismissal.” *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *see, e.g.*,
3 *Roberts v. United States of America*, No. 2:01-cv-1230-RLH-LRL, 2002 WL 1770930 (D. Nev.
4 June 13, 2002). However, before dismissing a case for failing to follow local rules or for failure
5 to prosecute, the district court must weigh five factors: “(1) the public’s interest in expeditious
6 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to
7 defendants/respondents; (4) the availability of less drastic sanctions; and (5) the public policy
8 favoring disposition of cases on their merits.” *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir.
9 2002).

10 Under this test, “the public’s interest in expeditious resolution of litigation always favors
11 dismissal.” *Yourish v. Cal. Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999). Also, the Court’s need
12 to manage its docket is manifest. *See State Farm Mut. Auto. Ins. Co. v. Ireland*, No. 2:07-cv-
13 01541-RCJ-RJJ, 2009 WL 4280282 (D. Nev. Nov. 30, 2009). Further, Plaintiff’s failure to
14 timely respond to Defendant’s motion has unreasonably delayed the resolution of this case, and
15 such unreasonable delay “creates a presumption of injury to the defense.” *Henderson v. Duncan*,
16 779 F.2d 1421, 1423 (9th Cir. 1986). Less drastic sanctions available to the Court include
17 dismissal of Plaintiff’s Complaint without prejudice.

18 The fifth factor also does not weigh in favor of Plaintiff because it is not clear that this
19 case was likely to be decided on the merits. Plaintiff has failed to take any action since the
20 Motion to Dismiss was filed. Accordingly, the Court concludes that consideration of the five
21 factors discussed above weighs in favor of dismissal.

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1 **III. CONCLUSION**

2 **IT IS HEREBY ORDERED** that Defendant's Motion to Dismiss, (ECF No. 20), is
3 **GRANTED**. Plaintiff's Complaint, (ECF No. 11), is **DISMISSED without prejudice**. The
4 clerk shall enter judgment accordingly.

5 **DATED** this 9 day of June, 2017.

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9 Gloria M. Navarro, Chief Judge
10 United States District Judge
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